



**IN THE  
TENTH COURT OF APPEALS**

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**No. 10-16-00246-CV**

**IN THE INTEREST OF Y.B., A CHILD**

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**From the 85th District Court  
Brazos County, Texas  
Trial Court No. 14-000579-CV-85**

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**MEMORANDUM OPINION**

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After Appellant's parental rights to her child, Y.B., were terminated following a bench trial,<sup>1</sup> Appellant's appointed appellate counsel filed a notice of appeal.<sup>2</sup> Appellant's counsel has now filed an *Anders* brief and a motion to withdraw. Counsel asserts that he has diligently reviewed the record and that, in his opinion, the appeal is frivolous. *See Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967); *In re*

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<sup>1</sup> Appellant's rights were terminated under Family Code sections 161.001(b)(1)(D), 161.001(b)(1)(E), and 161.001(b)(1)(N).

<sup>2</sup> The parental rights of the child's father were also terminated, but he has not appealed.

*E.L.Y.*, 69 S.W.3d 838, 841 (Tex. App.—Waco 2002, order) (applying *Anders* to termination appeal).

Counsel’s brief meets the requirements of *Anders*; it presents a professional evaluation demonstrating why there are no arguable grounds to advance on appeal. See *In re Schulman*, 252 S.W.3d 403, 407 n.9 (Tex. Crim. App. 2008) (“In Texas, an *Anders* brief need not specifically advance ‘arguable’ points of error if counsel finds none, but it must provide record references to the facts and procedural history and set out pertinent legal authorities.”); *Stafford v. State*, 813 S.W.2d 503, 510 n.3 (Tex. Crim. App. 1991). Appellant’s counsel has carefully discussed why, under controlling authority, there is no reversible error in the trial court’s order of termination. Counsel has informed us that he has: (1) examined the record and found no arguable grounds to advance on appeal; (2) served a copy of the brief and counsel’s motion to withdraw on Appellant; and (3) informed Appellant of her right to obtain a copy of the record and of her right to file a *pro se* response. See *Anders*, 386 U.S. at 744, 87 S.Ct. at 1400; *Stafford*, 813 S.W.2d at 510 n.3; *High v. State*, 573 S.W.2d 807, 813 (Tex. Crim. App. [Panel Op.] 1978); see also *Schulman*, 252 S.W.3d at 409 n.23. Appellant did not file a *pro se* response.

Upon receiving an *Anders* brief, we must conduct a full examination of all the proceedings to determine whether the case is wholly frivolous. *Penson v. Ohio*, 488 U.S. 75, 80, 109 S.Ct. 346, 349-50, 102 L.Ed.2d 300 (1988). An appeal is “wholly frivolous” or “without merit” when it “lacks any basis in law or fact.” *McCoy v. Court of Appeals*, 486

U.S. 429, 439 n.10, 108 S.Ct. 1895, 1902 n.10, 100 L.Ed.2d 440 (1988).

We have reviewed the entire record and counsel's brief and have found nothing that would arguably support an appeal. See *Bledsoe v. State*, 178 S.W.3d 824, 827-28 (Tex. Crim. App. 2005) ("Due to the nature of *Anders* briefs, by indicating in the opinion that it considered the issues raised in the briefs and reviewed the record for reversible error but found none, the court of appeals met the requirement of Texas Rule of Appellate Procedure 47.1."); *Stafford*, 813 S.W.2d at 509. Accordingly, we affirm the trial court's order of termination.

We deny counsel's motion to withdraw in accordance with *In re G.P.*, No. 10-16-00068-CV, 2016 WL 5417458, at \*3-4 (Tex. App.—Waco Sept. 28, 2016, no pet. h.). If Appellant, after consulting with counsel, desires to file a petition for review, Appellant's appellate counsel is still under a duty to timely file with the Texas Supreme Court "a petition for review that satisfies the standards for an *Anders* brief."<sup>3</sup> See *In re P.M.*, No. 15-0171, 2016 WL 1274748, at \*3 (Tex. Apr. 1, 2016).

REX D. DAVIS  
Justice

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<sup>3</sup> We do not address whether counsel's duty requires the filing of a petition for review or a motion for rehearing in the Texas Supreme Court in the absence of the client's professed desire to do so in *Anders* proceedings.

Before Chief Justice Gray,  
Justice Davis, and  
Justice Scoggins

Affirmed

Opinion delivered and filed November 30, 2016

[CV06]

